

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**HAKIM SIMS,**

**Plaintiff,**

**v.**

**CITY OF ORANGE, MAYOR  
ELDRIDGE HAWKINS, JR.  
(Individually and in his official  
capacity as the Mayor of the City of  
Orange), and POLICE DIRECTOR  
JOHN E. RAPPAPORT (Individually  
and in his official capacity as the  
Police Director of the City of  
Orange)**

**Defendants.**

Civ. No. 12-cv-2961 (KM)

**MEMORANDUM ORDER AMENDING  
SUMMARY JUDGMENT OPINION**

**KEVIN MCNULTY, U.S.D.J.:**

On March 13, 2015, this Court issued an Order and Opinion (Dkt. Nos. 34, 35) granting defendant John Rappaport's motion for summary judgment and granting in part and denying in part the motion for summary judgment filed by defendants City of Orange and Eldridge Hawkins, Jr. In a footnote, the Opinion stated that because the plaintiff, Hakim Sims, did not assert a claim for intentional or negligent infliction of emotional distress, the Court would therefore assume that Sims abandoned any claims for damages relating to "emotional distress." (See Dkt. No. 34, at 7 n.2)

Plaintiff's counsel, Mr. Nulty, has written a letter to the Court dated March 18, 2015 (Dkt. No. 36). His letter states that, although plaintiff has not asserted an emotional distress *claim*, he does seek *damages* for emotional distress in connection with his claims under 42 U.S.C. §1983 and the New Jersey Civil Rights Act. He adds that, contrary to the Court's assumption, he did not intend to abandon any such claim for damages.

Mr. Nulty has a point; my assumption was incorrect. Plaintiff has not intentionally abandoned a claim for emotional distress damages, and of course any such abandonment would be entirely at plaintiff's option. In so saying, I do not mean to rule that such damages are available or appropriate; I merely recognize that plaintiff continues to claim them.

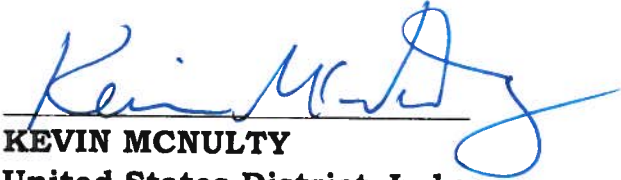
Consequently, after considering the case law and arguments cited in the letter, and for good cause shown:

**IT IS** this 20th day of March, 2015,

**ORDERED** that footnote 2 of the Opinion (Dkt no. 34 at 7 n.2) is hereby deemed amended as follows:

The following sentence is stricken: "I will therefore assume Sims has abandoned any claim for damages relating to 'emotional distress.'"

For the stricken sentence, substitute: "Sims has not, however, abandoned his prayer for emotional distress damages in connection with his other causes of action."

  
**KEVIN MCNULTY**  
**United States District Judge**